

ORIGINAL

DOW, LOHNES & ALBERTSON, PLLC
ATTORNEYS AT LAW

J.G. HARRINGTON
DIRECT DIAL 202-776-2818
jharrington@dlalaw.com

WASHINGTON, D.C.
1200 NEW HAMPSHIRE AVENUE, N.W. • SUITE 800 • WASHINGTON, D.C. 20036-6802
TELEPHONE 202-776-2000 • FACSIMILE 202-776-2222

ONE RAVINIA DRIVE • SUITE 1600
ATLANTA, GEORGIA 30346-2108
TELEPHONE 770-901-8800
FACSIMILE 770-901-8874

October 16, 1996

EX PARTE OR LATE FILED

RECEIVED

OCT 16 1996

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Federal Communications Commission
Office of Secretary

WRITTEN EX PARTE PRESENTATION

Re: CC Docket No. 92-105

Dear Mr. Caton:

Attached please find the Response of Cox Enterprises, Inc. to the request of the Justice Department that the N11 number 311 be reserved on a nationwide basis for non-emergency police telephone calls.

In accordance with Section 1.1206 of the Commission's Rules, I am submitting an original and one copy of this written ex parte presentation.

Respectfully submitted,



J.G. Harrington
Counsel for Cox Enterprises, Inc.

JGH/car
Enclosure
cc w/encl:

Chairman Reed E. Hundt
Commissioner James H. Quello
Commissioner Rachelle B. Chong
Commissioner Susan Ness
Regina Keeney
Elizabeth Nightingale

No. of Copies rec'd
List ABCDE

021

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Request of the)	
United States Department of Justice)	
That 311 Be Reserved For Use)	CC Docket No. 92-105
By Communities For)	
Non-Emergency Police Telephone Calls)	

RESPONSE OF COX ENTERPRISES, INC.

Cox Enterprises, Inc. ("Cox"), by its attorneys, hereby submits its response on the request of the United States Department of Justice ("Justice Department") that the N11 number 311 be reserved on a national basis for use for non-emergency police telephone calls.^{1/} The Request states that a pilot implementation of 311 will take place in Baltimore, Maryland, and asks the Commission to reserve 311 now on a national basis.^{2/}

Cox has been an advocate of expanding the use of N11 numbers for some time.^{3/} Allowing the LECs to monopolize the use of N11 numbers is not in the public interest, and Cox supports releasing the numbers to non-LEC entities. Cox also supports 911 and public safety,

^{1/} See *Public Notice*, Pleading Cycle Established for Request of the United States Department of Justice That 311 Be Reserved for Use by Communities for Non-Emergency Police Telephone Calls, CC Docket No. 92-105, DA 96-1500 (released September 10, 1996). See also Letter to Regina Keeney, Chief, Common Carrier Bureau, Federal Communications Commission from Joseph E. Brann, Director, U.S. Department of Justice Office of Community Oriented Policing Services (received August 28, 1996 at the Common Carrier Bureau Network Service Division Office of the Chief) (the "Request").

^{2/} Dallas, Texas also will be testing a non-emergency number separately from the Justice Department's initiative. The Request does not indicate, however, whether Dallas is using an N11 number. Request at 1.

^{3/} See, e.g., Comments of Cox Enterprises, Inc., *The Use of N11 Codes and Other Abbreviated Dialing Arrangements*, CC Docket No. 92-105 (filed June 5, 1992); Comments of Cox Enterprises, Inc., Advance Publications, Inc., Gannett Co., Inc., The Hearst Corporation and the Washington Post Company, *N11 Codes and Other Abbreviated Dialing Arrangements*, CC Docket No. 92-105, IAD File No. 94-101 (filed August 19, 1994) ("Comments of the Media Parties"); Reply Comments of the Media Parties, *N11 Codes and Other Abbreviated Dialing Arrangements*, CC Docket No. 92-105, IAD File No. 94-101 (filed September 23, 1994).

but questions whether dedicating an N11 number for local government and "non-emergency use" is the best use of a resource like N11. Any N11 allocation should be made as part of a broader examination of N11 numbers so that these resources can be put to optimum use.

Consequently, no action should be taken on the Justice Department's Request until actual data from Baltimore supporting the use of 311 for police non-emergency telephone calls is available. After data is available, the success (or failure) of 311 as a pressure valve for 911 must be compared with the successful use of N11 by non-governmental entities before any decision is made regarding nationwide reservation.

I. IT WOULD BE PREMATURE TO RESERVE 311 AT THIS TIME.

A. No Basis Currently Exists to Support The Justice Department's Request.

Less than two weeks ago a pilot project began in Baltimore to test whether offering residents the ability to dial 311 to inform the police about non-life-threatening disturbances will take the strain off of 911.^{4/} In Baltimore approximately 60 percent of the 911 calls made in 1995 were non-emergencies, and the law enforcement community in general has become increasingly worried that non-emergency calls to 911 could compromise its capacity to respond effectively to life-threatening emergencies.^{5/}

Baltimore had intended to adopt AT&T's national number "800/379-COPS" for residents to use for non-emergency calls.^{6/} The switch to the 311 test apparently came after a proposal to

^{4/} *AT&T, Justice Department Test Non-Emergency 311 Project in Baltimore*, WASHINGTON TELECOM WEEK, October 4, 1996, at 17.

^{5/} *Id.*

^{6/} *See Clinton Calls for New 'Community Policing' Number*, TELECOMMUNICATIONS REPORTS, (continued...)

allocate a new number nationwide for non-emergency calls was made by President Clinton.^{7/} In a July 23, 1996 speech President Clinton called on the Justice Department, the FCC and local law enforcement officials to come up with a plan to establish a national "community policing" number for non-emergency calls that "will be as easy to use and remember as 911."^{8/} Almost a month later, the Justice Department responded to President Clinton with a test of 311 in Baltimore and a request to the FCC to reserve 311 on a national basis for community use.^{9/}

Cox fully supports initiatives to improve the safety of our cities. At this time, however, the Commission has no basis for determining that using 311 for a national non-emergency number is in the public interest, let alone for determining that such uses are superior to alternative uses for N11 numbers. Until the Baltimore test is complete, any reservation of 311 will be premature. Only after the test is over and cost and benefit data are compiled should a decision be made.

B. 311 May Not Prove Successful As a Non-Emergency Number.

The concept of dialing 911 to reach emergency help has, after nearly 30 years of effort, finally gained a firm place in the public's mind. Small children are taught to dial "911" in an emergency, and people expect to be able to dial 911 anywhere in the country and receive

^{6/} (...continued)
July 29, 1996, at 12.

^{7/} *Id.*

^{8/} *Id.*

^{9/} The Request asks the FCC to reserve 311 for community use, but states that "the particular specifications of the service may vary in different communities and should be developed based upon their particular needs and capabilities." Justice Department Request at 2. Consequently, the Request asks that 311 be reserved for use by communities for non-emergency police telephone calls "and at the discretion of the jurisdiction" for other government service calls. *Id.*

immediate help.^{10/} 911 is, however, choking on its own popularity. The 911 backlog is caused in part by local government staffing levels that are inadequate to answer 911 and other governmental calls. If local governments had the resources to staff incoming calls adequately, 911 might not be so burdened. Reserving a new number, whether it is 311, 800/379-COPS or some other number, will not stop people from dialing 911 if 911 is the only number citizens can dial and get a response.^{11/}

Staffing levels, however, are only part of the problem. In many cases what appears to be an emergency to a caller may not be considered an emergency by the police. Consequently, in areas where 911 backlog is a problem, citizen education, with or without a new non-emergency number, must be part of the solution.^{12/} In Baltimore, along with the promotion of 311, AT&T is issuing descriptions of 16 scenarios in which callers should dial 311 rather than 911.^{13/} To report crime situations not in progress, including destruction of property or theft after the fact, callers

^{10/} Despite these efforts, 911 has achieved coverage of only 85 percent of the nation's population and 50 percent of its geographic area, according to the National Emergency Number Association's World Wide Web site.

^{11/} As USTA's Executive Director of Operations and Engineering said in response to the Clinton proposal, the challenge would not be finding a telephone number the public can easily remember, the challenge would be "finding a place to route all the calls to." See *Clinton Calls for New 'Community Policing' Number*, TELECOMMUNICATIONS REPORTS, July 29, 1996, at 12. Indeed, Baltimore's number already was backlogged on its first day in operation. *Baltimore's New 311 Line Gets Hundreds of Calls*, WASHINGTON POST, October 5, 1996, at B6 (stating that "some callers were put on hold").

^{12/} Significantly, the Justice Department's Request does not argue that 911 backlog is a reason to allocate additional N11 resources to police departments and local governments. While Cox is unaware of any data on point, it is likely 911 backlog is not a problem outside of a few urban areas.

^{13/} See *AT&T, Justice Department Test Non-Emergency 311 Project in Baltimore*, WASHINGTON TELECOM WEEK, October 4, 1996, at 17.

are instructed to dial 311 rather than 911.^{14/} Other 311 non-emergencies include animal disturbances, lost property, minor flooding and open fire hydrants. What would be interesting to determine, and what the Baltimore test will not reveal, is whether a similar education program using a non-N11 number might reduce the strain on 911.^{15/} Without such data available for comparison, if the Baltimore test does relieve the pressure on 911, it will be uncertain whether the success is due to use of 311, or whether the success is due to other factors such as citizen education or increased local government staffing levels.^{16/}

The most serious potential flaw in a 311 program, however, could be that because 311 and 911 are so similar, people may not distinguish between 911 and 311 if both are perceived to be "police" numbers.^{17/} People may call 311 for emergencies, thus causing problems with emergency response time, especially if 911 backlog is a problem. If even a small percentage of emergency calls are received by 311, 311 will not be relieving any pressure on 911. Instead, 311 will be nothing more than an alternative 911. In Baltimore, the 311 system will identify a caller's telephone number and determine a caller's location, thus closely paralleling the resources

^{14/} *Id.*

^{15/} Indeed, an education program would logically appear to solve the 911 backlog "problem." Police and government telephone numbers are easily accessible (often in the front of telephone books), and people who move or are traveling should know that they can dial "0" and ask for the police. It would seem that citizens already have easy access to traditional police and emergency numbers. Thus, it seems that knowing when to dial 911, rather than knowing how to dial another number, is the real problem.

^{16/} The best way to make such a determination would be to conduct a similar trial in another city using 800/379-COPS or some other number.

^{17/} This concern arises because the current use of 911 and the proposed use of 311 are so similar. Both numbers would be used to reach the police. Where uses are distinct, confusion is not an issue. For instance, Cox has been operating an information service using 511 in the Atlanta and West Palm Beach metropolitan areas for over 3 years, and has experienced no problems of customer confusion between 511 and 911.

available to trace 911 calls.^{18/} The only difference will be that calls will be directed to individual police precincts or to an officer on the beat rather than to a central dispatch office. This difference could, however, mean the difference between life and death to some callers. If a national non-emergency number is adopted, using a number distinguishable from 911, like 800/379-COPS, would decrease citizen confusion and possibly save lives.

C. N11 Numbers Already Reserved By the States Remain Unused.

At least two states, Georgia and Tennessee, have reserved N11 numbers for state and local government use.^{19/} To date, no use has been made of those numbers. Despite the assumption that N11 would be a useful and necessary tool for connecting citizens with their state and local governments, N11 apparently is not useful enough for Georgia and Tennessee to implement. As Cox has told the Commission before, it is expensive to modify the telephone network to accept and route N11 calls,^{20/} and N11 numbers assigned for generic government use can be more hindrance than help.^{21/} In all of the state and federal proceedings on N11, no

^{18/} See *AT&T, Justice Department Test Non-Emergency 311 Project in Baltimore*, WASHINGTON TELECOM WEEK, October 4, 1996, at 17.

^{19/} In Tennessee, 211 was reserved for use by the state of Tennessee on a state-wide basis. See *Interim Order*, Investigation of N11 Allocations, Before the Tennessee Public Service Commission, Docket No. 92-13892 (October 20, 1993) at 2. 211 was also assigned in Georgia to the Georgia Department of Administrative Services. See *Order*, Southern Bell Telephone and Telegraph Company N11 Tariff Filing, Before the Public Service Commission of the State of Georgia, Docket No. 4232-U (May 18, 1993) at 14.

^{20/} In 1993 when Cox started N11 service in West Palm Beach, BellSouth imposed a non-recurring charge of \$15,000 for setting up 511 within the West Palm Beach local calling area, and BellSouth's N11 tariffs at that time contained initial charges ranging from \$15,000 to \$80,000 per local calling area. Comments of the Media Parties filed September 23, 1994, at 37.

^{21/} As Cox has previously noted, if more than just a few government agencies are accessible through the same uniform number, callers will be required to navigate through complicated audio menus to search for the agency or service they want to reach. Reply Comments of the Media Parties at 15-16.

demonstrated need for a state/local government N11 number has been shown. Indeed, the experience in Georgia and Tennessee appear to show the opposite: N11 is not a useful, appropriate vehicle for connecting citizens with their governments.

II. ANY N11 ALLOCATION SHOULD BE MADE AS PART OF A COMPREHENSIVE EVALUATION OF N11.

The Commission's docket on the usage of N11 numbers has been open since 1992. Cox and other parties have described the many uses for N11, and have urged the Commission to direct the incumbent local exchange carriers to release N11 numbers to non-LEC entities. Cox's use of 511 in Atlanta and West Palm Beach to provide customers with a myriad of information services has been extraordinarily successful, and the use of N11 by Cox and other parties in states such as Georgia, Florida, Tennessee and Louisiana shows that N11 is a valuable numbering resource for non-governmental entities. The Commission should recognize the significant long-term success of commercial N11 assignments, and must take that success into account when formulating any policy regarding usage of N11.

There is no evidence in this proceeding demonstrating any meaningful demand for non-commercial uses of N11 numbers. The Justice Department Request alludes to "many other communities that are eager to pursue a similar effort" to implement a non-emergency number

21/ (...continued)

Moreover, if, as the Justice Department has proposed, each locality will have the option to tailor its usage of any "national" non-emergency number, callers may find that if they dial 311 in Denver they are connected directly with a non-emergency response center, whereas if they dial 311 in Philadelphia they must walk through a series of menus to reach the same type of service. Obviously, a number's value as a "national" number will significantly diminish if usage varies from location to location.

project,^{22/} but the Justice Department Request fails to explain that in Baltimore AT&T is "contributing" its call processing technology and Bell Atlantic apparently is modifying its network without charge.^{23/} The Baltimore project is being subsidized by AT&T, Bell Atlantic, and possibly the Justice Department itself. The Baltimore pilot, except for staffing costs, appears to be essentially free to the city. The appeal of free services explains the interest of other communities in joining the program. In comparison, when communities have had to pay for access to N11, they have either declined to do so, as has been shown in Georgia and Tennessee, or have taken many years, as with 911, before achieving anything close to national ubiquitous use.

In contrast, commercial use of N11 has been extraordinarily successful and the Commission has three and a half years of experience to prove it. As Cox told the Commission in 1994, commercial usage of N11 has generated unprecedented call volumes and results in exceedingly high customer satisfaction.^{24/} Cox's market research shows that consumers like N11-based service more than information provided through other numbering resources like 900 numbers, and consumers greatly prefer the pricing structure of N11-based services.^{25/} Cox has been providing both free and pay-per-call information using 511 in West Palm Beach since March of 1993 and in Atlanta since September of 1993. In Atlanta, call rates have averaged over 10,000 **per day** over the past few months — an annual rate of 4 million calls — with requests for

^{22/} Justice Department Request at 1.

^{23/} *AT&T, Justice Department Test Non-Emergency 311 Project in Baltimore*, WASHINGTON TELECOM WEEK, October 4, 1996, at 17.

^{24/} Comments of the Media Parties at 10-12 and Appendix B.

^{25/} *Id.* at 11.

credits averaging less than 0.04 percent. Cox has used its N11 numbers to provide the public with services that have ranged from play-by-play inning highlights during the Atlanta Braves pennant race to collecting donations for flood relief in Georgia in conjunction with the Salvation Army and the Red Cross. N11 has enabled Cox to reach out to the Atlanta and West Palm Beach areas to provide a wide range of current, community-based information accessible at low cost to anyone with a touch tone telephone.

Despite inclusion in the N11 docket of proposals similar to the one now made by the Justice Department, the Commission has not acted on N11.^{26/} The Commission cannot now ignore evidence of other uses for N11 and only examine the narrow issue of 311 for local government and non-emergency use. Cox and other companies have invested significant time and resources in developing N11 numbers in cities across the country for multiple uses. The significant public interest benefits of those uses must be considered when the Commission formulates its policy. If the Commission wants to assign 311 to local governments, at the very least it must re-open its N11 docket and examine the assignment of N11 codes in a broader context.

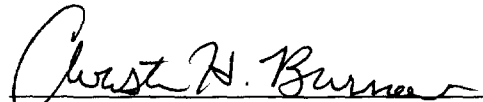
^{26/} See, e.g., *Public Notice*, Commission Seeks Comment on Requests of Federal Agencies and Others For the Assignment of N11 Codes, IAD File No. 94-101, DA 94-644 (released June 17, 1994) (asking for comment on a petition filed by the General Services Administration for the Commission to assign an N11 number for use by the public to gain access to federal executive agencies; the Public Notice observes that the GSA request was similar to a request received in 1993 from the National Association of State Telecommunications Directors in a *ex parte* presentation for an N11 assignment for access to state governments.)

III. CONCLUSION

911 was intended to be an emergency number that could be called in times of distress to ensure an immediate response. If 911 is overburdened, assigning a new N11 number to local governments probably is not the answer. It is, in any event, premature for the Commission to make an assignment of 311 before the Baltimore trial is complete. Only by examining the Justice Department Request after the Baltimore test is complete, and within the broader context of all potential and existing N11 uses, can a responsible decision be made concerning the allocation of N11 numbers.

Respectfully submitted,

COX ENTERPRISES, INC.

A handwritten signature in cursive script, appearing to read "Christina H. Burrow", written over a horizontal line.

J.G. Harrington

Christina H. Burrow

Its Attorneys

DOW, LOHNES & ALBERTSON, PLLC
1200 New Hampshire Avenue
Suite 800
Washington, D.C. 20036
(202) 776-2000

October 16, 1996